

107TH CONGRESS
1ST SESSION

S. 320

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2001

Referred to the Committee on the Judiciary

AN ACT

To make technical corrections in patent, copyright, and
trademark laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Intellectual Property
5 and High Technology Technical Amendments Act of
6 2001”.

1 **SEC. 2. OFFICERS AND EMPLOYEES.**

2 (a) RENAMING OF OFFICERS.—(1) Title 35, United
3 States Code, is amended—

4 (A) by striking “Director” each place it appears
5 and inserting “Commissioner”; and

6 (B) by striking “Director’s” each place it ap-
7 pears and inserting “Commissioner’s”.

8 (2) The Act of July 5, 1946 (commonly referred to
9 as the “Trademark Act of 1946”; 15 U.S.C. 1051 et seq.)
10 is amended by striking “Director” each place it appears
11 and inserting “Commissioner”.

12 (3)(A) Title 35, United States Code, is amended by
13 striking “Commissioner for Patents” each place it appears
14 and inserting “Assistant Commissioner for Patents”.

15 (B) Section 3(b)(2) of title 35, United States Code,
16 is amended—

17 (i) in the paragraph heading, by striking “COM-
18 MISSIONERS” and inserting “ASSISTANT COMMIS-
19 SIONERS”;

20 (ii) in subparagraph (A), in the last sentence—

21 (I) by striking “a Commissioner” and in-
22 serting “an Assistant Commissioner”; and

23 (II) by striking “the Commissioner” and
24 inserting “the Assistant Commissioner”;

25 (iii) in subparagraph (B)—

1 (I) by striking “Commissioners” each place
2 it appears and inserting “Assistant Commis-
3 sioners”;

4 (II) by striking “Commissioners’ ” each
5 place it appears and inserting “Assistant Com-
6 missioners’ ”; and

7 (iv) in subparagraph (C), by striking “Commis-
8 sioners” and inserting “Assistant Commissioners”.

9 (C) Section 3(f) of title 35, United States Code, is
10 amended in paragraphs (2) and (3), by striking “the Com-
11 missioner” each place it appears and inserting “the Assist-
12 ant Commissioner”.

13 (D) Section 13 of title 35, United States Code, is
14 amended—

15 (i) by striking “Commissioner of” each place it
16 appears and inserting “Assistant Commissioner for”;
17 and

18 (ii) by striking “Commissioners” and inserting
19 “Assistant Commissioners”.

20 (E) Chapter 17 of title 35, United States Code, is
21 amended by striking “Commissioner of Patents” each
22 place it appears and inserting “Assistant Commissioner
23 for Patents”.

1 (F) Section 297 of title 35, United States Code, is
 2 amended by striking “Commissioner of Patents” each
 3 place it appears and inserting “Commissioner”.

4 (4) Title 35, United States Code, is amended by
 5 striking “Commissioner for Trademarks” each place it ap-
 6 pears and inserting “Assistant Commissioner for Trade-
 7 marks”.

8 (5) Section 5314 of title 5, United States Code, is
 9 amended by striking

10 “Under Secretary of Commerce for Intellectual
 11 Property and Director of the United States Patent
 12 and Trademark Office.”

13 and inserting

14 “Under Secretary of Commerce for Intellectual
 15 Property and Commissioner of the United States
 16 Patent and Trademark Office.”.

17 (6)(A) Section 303 of title 35, United States Code,
 18 is amended—

19 (i) in the section heading by striking “ **Direc-**
 20 **tor** ” and inserting “**Commissioner**”; and

21 (ii) by striking “Director’s” and inserting
 22 “Commissioner’s”.

23 (B) The item relating to section 303 in the table of
 24 sections for chapter 30 of title 35, United States Code,

1 is amended by striking “Director” and inserting “Com-
2 missioner”.

3 (b) ADDITIONAL CLERICAL AMENDMENTS.—

4 (1) The following provisions of law are amended
5 by striking “Director” each place it appears and in-
6 serting “Commissioner”.

7 (A) Section 9(p)(1)(B) of the Small Busi-
8 ness Act (15 U.S.C. 638(p)(1)(B)).

9 (B) Section 19 of the Tennessee Valley
10 Authority Act of 1933 (16 U.S.C. 831r).

11 (C) Section 182(b)(2)(A) of the Trade Act
12 of 1974 (19 U.S.C. 2242(b)(2)(A)).

13 (D) Section 302(b)(2)(D) of the Trade Act
14 of 1974 (19 U.S.C. 2412(b)(2)(D)).

15 (E) Section 702(d) of the Federal Food,
16 Drug, and Cosmetic Act (21 U.S.C. 372(d)).

17 (F) Section 1295(a)(4)(B) of title 28,
18 United States Code.

19 (G) Section 1744 of title 28, United States
20 Code.

21 (H) Section 151 of the Atomic Energy Act
22 of 1954 (42 U.S.C. 2181).

23 (I) Section 152 of the Atomic Energy Act
24 of 1954 (42 U.S.C. 2182).

1 (J) Section 305 of the National Aero-
 2 nautics and Space Act of 1958 (42 U.S.C.
 3 2457).

4 (K) Section 12(a) of the Solar Heating
 5 and Cooling Demonstration Act of 1974 (42
 6 U.S.C. 5510(a)).

7 (L) Section 10(i) of the Trading with the
 8 enemy Act (50 U.S.C. App. 10(i)).

9 (M) Section 4203 of the Intellectual Prop-
 10 erty and Communications Omnibus Reform Act
 11 of 1999, as enacted by section 1000(a)(9) of
 12 Public Law 106–113.

13 (2) The item relating to section 1744 in the
 14 table of sections for chapter 115 of title 28, United
 15 States Code, is amended by striking “generally” and
 16 inserting “, generally”.

17 (c) REFERENCES.—Any reference in any other Fed-
 18 eral law, Executive order, rule, regulation, or delegation
 19 of authority, or any document of or pertaining to the Pat-
 20 ent and Trademark Office—

21 (1) to the Director of the United States Patent
 22 and Trademark Office or to the Commissioner of
 23 Patents and Trademarks is deemed to refer to the
 24 Under Secretary of Commerce for Intellectual Prop-

erty and Commissioner of the United States Patent
and Trademark Office;

(2) to the Commissioner for Patents is deemed
to refer to the Assistant Commissioner for Patents;
and

(3) to the Commissioner for Trademarks is
deemed to refer to the Assistant Commissioner for
Trademarks.

SEC. 3. CLARIFICATION OF REEXAMINATION PROCEDURE

ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PRO-
CEDURES.—Title 35, United States Code, is amended as
follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking “person”
and inserting “third-party requester”; and

(B) in subsection (c), by striking “Unless
the requesting person is the owner of the pat-
ent, the” and inserting “The”.

(2) Section 312 is amended—

(A) in subsection (a), by striking the last
sentence; and

(B) by striking “, if any”.

(3) Section 314(b)(1) is amended—

1 (A) by striking “(1) This” and all that fol-
 2 lows through “(2)” and inserting “(1)”;

3 (B) by striking “the third-party requester
 4 shall receive a copy” and inserting “the Office
 5 shall send to the third-party requester a copy”;
 6 and

7 (C) by redesignating paragraph (3) as
 8 paragraph (2).

9 (4) Section 315(c) is amended by striking
 10 “United States Code,”.

11 (5) Section 317 is amended—

12 (A) in subsection (a), by striking “patent
 13 owner nor the third-party requester, if any, nor
 14 privies of either” and inserting “third-party re-
 15 quester nor its privies”; and

16 (B) in subsection (b), by striking “United
 17 States Code,”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) APPEAL TO THE BOARD OF PATENT AP-
 20 PEALS AND INTERFERENCES.—Subsections (a), (b),
 21 and (c) of section 134 of title 35, United States
 22 Code, are each amended by striking “administrative
 23 patent judge” each place it appears and inserting
 24 “primary examiner”.

1 (2) PROCEEDING ON APPEAL.—Section 143 of
2 title 35, United States Code, is amended by amend-
3 ing the third sentence to read as follows: “In an ex
4 parte case or any reexamination case, the Commis-
5 sioner shall submit to the court in writing the
6 grounds for the decision of the Patent and Trade-
7 mark Office, addressing all the issues involved in the
8 appeal. The court shall, before hearing an appeal,
9 give notice of the time and place of the hearing to
10 the Commissioner and the parties in the appeal.”.

11 (c) CLERICAL AMENDMENTS.—

12 (1) Section 4604(a) of the Intellectual Property
13 and Communications Omnibus Reform Act of 1999,
14 is amended by striking “Part 3” and inserting “Part
15 III”.

16 (2) Section 4604(b) of that Act is amended by
17 striking “title 25” and inserting “title 35”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 sections 4605(c) and 4605(e) of the Intellectual Property
20 and Communications Omnibus Reform Act, as enacted by
21 section 1000(a)(9) of Public Law 106–113, shall apply to
22 any reexamination filed in the United States Patent and
23 Trademark Office on or after the date of the enactment
24 of Public Law 106–113.

1 **SEC. 4. PATENT AND TRADEMARK EFFICIENCY ACT AMEND-**
2 **MENTS.**

3 (a) DEPUTY COMMISSIONER.—

4 (1) Section 17(b) of the Act of July 5, 1946
5 (commonly referred to as the “Trademark Act of
6 1946”) (15 U.S.C. 1067(b)), is amended by insert-
7 ing “the Deputy Commissioner,” after “Commis-
8 sioner,”.

9 (2) Section 6(a) of title 35, United States Code,
10 is amended by inserting “the Deputy Commis-
11 sioner,” after “Commissioner,”.

12 (b) PUBLIC ADVISORY COMMITTEES.—Section 5 of
13 title 35, United States Code, is amended—

14 (1) in subsection (i), by inserting “, privileged,”
15 after “personnel”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(j) INAPPLICABILITY OF PATENT PROHIBITION.—
19 Section 4 shall not apply to voting members of the Advi-
20 sory Committees.”.

21 (c) MISCELLANEOUS.—Section 153 of title 35,
22 United States Code, is amended by striking “and attested
23 by an officer of the Patent and Trademark Office des-
24 ignated by the Commissioner,”.

1 **SEC. 5. DOMESTIC PUBLICATION OF FOREIGN FILED PAT-**
2 **ENT APPLICATIONS ACT OF 1999 AMEND-**
3 **MENTS.**

4 Section 154(d)(4)(A) of title 35, United States Code,
5 as in effect on November 29, 2000, is amended—

6 (1) by striking “on which the Patent and
7 Trademark Office receives a copy of the” and insert-
8 ing “of”; and

9 (2) by striking “international application” the
10 last place it appears and inserting “publication”.

11 **SEC. 6. DOMESTIC PUBLICATION OF PATENT APPLICA-**
12 **TIONS PUBLISHED ABROAD.**

13 Subtitle E of title IV of the Intellectual Property and
14 Communications Omnibus Reform Act of 1999, as enacted
15 by section 1000(a)(9) of Public Law 106–113, is amended
16 as follows:

17 (1) Section 4505 is amended to read as follows:
18 **“SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICA-**
19 **TIONS.**

20 “Section 102(e) of title 35, United States Code, is
21 amended to read as follows:

22 ““(e) the invention was described in (1) an applica-
23 tion for patent, published under section 122(b), by another
24 filed in the United States before the invention by the ap-
25 plicant for patent or (2) a patent granted on an applica-
26 tion for patent by another filed in the United States before

1 the invention by the applicant for patent, except that an
 2 international application filed under the treaty defined in
 3 section 351(a) shall have the effects for the purposes of
 4 this subsection of an application filed in the United States
 5 if and only if the international application designated the
 6 United States and was published under Article 21(2) of
 7 such treaty in the English language; or’ ”.

8 (2) Section 4507 is amended—

9 (A) in paragraph (1), by striking “Section
 10 11” and inserting “Section 10”;

11 (B) in paragraph (2), by striking “Section
 12 12” and inserting “Section 11”.

13 (C) in paragraph (3), by striking “Section
 14 13” and inserting “Section 12”;

15 (D) in paragraph (4), by striking “12 and
 16 13” and inserting “11 and 12”;

17 (E) in section 374 of title 35, United
 18 States Code, as amended by paragraph (10), by
 19 striking “confer the same rights and shall have
 20 the same effect under this title as an applica-
 21 tion for patent published” and inserting “be
 22 deemed a publication”; and

23 (F) by adding at the end the following:

1 “(12) The item relating to section 374 in the
2 table of contents for chapter 37 of title 35, United
3 States Code, is amended to read as follows:

 “374. Publication of international application.”.

4 (3) Section 4508 is amended to read as follows:

5 **“SEC. 4508. EFFECTIVE DATE.**

6 “Except as otherwise provided in this section, sec-
7 tions 4502 through 4507, and the amendments made by
8 such sections, shall take effect on November 29, 2000, and
9 shall apply only to applications (including international
10 applications designating the United States) filed on or
11 after that date. The amendments made by sections 4504
12 and 4505 shall additionally apply to any pending applica-
13 tion filed before November 29, 2000, if such pending ap-
14 plication is published pursuant to a request of the appli-
15 cant under such procedures as may be established by the
16 Commissioner. If an application is filed on or after No-
17 vember 29, 2000, or is published pursuant to a request
18 from the applicant, and the application claims the benefit
19 of one or more prior-filed applications under section
20 119(e), 120, or 365(c) of title 35, United States Code,
21 then the amendment made by section 4505 shall apply to
22 the prior-filed application in determining the filing date
23 in the United States of the application.”.

1 **SEC. 7. MISCELLANEOUS CLERICAL AMENDMENTS.**

2 (a) AMENDMENTS TO TITLE 35.—The following pro-
3 visions of title 35, United States Code, are amended:

4 (1) Section 2(b) is amended in paragraphs
5 (2)(B) and (4)(B), by striking “, United States
6 Code”.

7 (2) Section 3 is amended—

8 (A) in subsection (a)(2)(B), by striking
9 “United States Code,”;

10 (B) in subsection (b)(2)—

11 (i) in the first sentence of subpara-
12 graph (A), by striking “, United States
13 Code”;

14 (ii) in the first sentence of subpara-
15 graph (B)—

16 (I) by striking “United States
17 Code,”; and

18 (II) by striking “, United States
19 Code”;

20 (iii) in the second sentence of sub-
21 paragraph (B)—

22 (I) by striking “United States
23 Code,”; and

24 (II) by striking “, United States
25 Code.” and inserting a period;

1 (iv) in the last sentence of subpara-
 2 graph (B), by striking “, United States
 3 Code”; and

4 (v) in subparagraph (C), by striking
 5 “, United States Code”; and
 6 (C) in subsection (c)—

7 (i) in the subsection caption, by strik-
 8 ing “, UNITED STATES CODE”; and

9 (ii) by striking “United States Code,”.

10 (3) Section 5 is amended in subsections (e) and
 11 (g), by striking “, United States Code” each place
 12 it appears.

13 (4) The table of chapters for part I is amended
 14 in the item relating to chapter 3, by striking “**be-**
 15 **fore**” and inserting “**Before**”.

16 (5) The item relating to section 21 in the table
 17 of contents for chapter 2 is amended to read as fol-
 18 lows:

“21. Filing date and day for taking action.”.

19 (6) The item relating to chapter 12 in the table
 20 of chapters for part II is amended to read as fol-
 21 lows:

“12. Examination of Application 131”.

1 (7) The item relating to section 116 in the table
2 of contents for chapter 11 is amended to read as fol-
3 lows:

“116. Inventors.”.

4 (8) Section 154(b)(4) is amended by striking “,
5 United States Code,”.

6 (9) Section 156 is amended—

7 (A) in subsection (b)(3)(B), by striking
8 “paragraphs” and inserting “paragraph”;

9 (B) in subsection (d)(2)(B)(i), by striking
10 “below the office” and inserting “below the Of-
11 fice”; and

12 (C) in subsection (g)(6)(B)(iii), by striking
13 “submittted” and inserting “submitted”.

14 (10) The item relating to section 183 in the
15 table of contents for chapter 17 is amended by strik-
16 ing “of” and inserting “to”.

17 (11) Section 185 is amended by striking the
18 second period at the end of the section.

19 (12) Section 201(a) is amended—

20 (A) by striking “United States Code,”; and

21 (B) by striking “5, United States Code.”
22 and inserting “5.”.

23 (13) Section 202 is amended—

1 (A) in subsection (b)(4), by striking “last
 2 paragraph of section 203(2)” and inserting
 3 “section 203(b)”; and

4 (B) in subsection (c)—

5 (i) in paragraph (4) by striking
 6 “rights;” and inserting “rights,”; and

7 (ii) in paragraph (5) by striking “of
 8 the United States Code”.

9 (14) Section 203 is amended—

10 (A) in paragraph (2)—

11 (i) by striking “(2)” and inserting
 12 “(b)”;

13 (ii) by striking the quotation marks
 14 and comma before “as appropriate”; and

15 (iii) by striking “paragraphs (a) and
 16 (c)” and inserting “paragraphs (1) and (3)
 17 of subsection (a)”;

18 (B) in the first paragraph—

19 (i) by striking “(a)”, “(b)”, “(c)”,
 20 and (d)” and inserting “(1)”, “(2)”, “(3)”,
 21 and (4)”, respectively; and

22 (ii) by striking “(1.” and inserting
 23 “(a)”.

24 (15) Section 209 is amended in subsections (a)
 25 and (f)(1), by striking “of the United States Code”.

1 (16) Section 210 is amended—

2 (A) in subsection (a)—

3 (i) in paragraph (11), by striking
4 “5901” and inserting “5908”; and

5 (ii) in paragraph (20) by striking
6 “178(j)” and inserting “178j”; and

7 (B) in subsection (c)—

8 (i) by striking “paragraph 202(c)(4)”
9 and inserting “section 202(c)(4)”; and

10 (ii) by striking “title..” and inserting
11 “title.”.

12 (17) The item relating to chapter 29 in the
13 table of chapters for part III is amended by insert-
14 ing a comma after “**Patent**”.

15 (18) The item relating to section 256 in the
16 table of contents for chapter 25 is amended to read
17 as follows:

“256. Correction of named inventor.”.

18 (19) Section 294 is amended—

19 (A) in subsection (b), by striking “United
20 States Code,”; and

21 (B) in subsection (c), in the second sen-
22 tence by striking “court to” and inserting
23 “court of”.

1 (20)(A) The item relating to section 374 in the
 2 table of contents for chapter 37 is amended to read
 3 as follows:

“374. Publication of international application.”.

4 (B) The amendment made by subparagraph (A)
 5 shall take effect on November 29, 2000.

6 (21) Section 371(b) is amended by adding at
 7 the end a period.

8 (22) Section 371(d) is amended by adding at
 9 the end a period.

10 (23) Paragraphs (1), (2), and (3) of section
 11 376(a) are each amended by striking the semicolon
 12 and inserting a period.

13 (b) OTHER AMENDMENTS.—

14 (1) Section 4732(a) of the Intellectual Property
 15 and Communications Omnibus Reform Act of 1999
 16 is amended—

17 (A) in paragraph (9)(A)(ii), by inserting
 18 “in subsection (b),” after “(ii)”; and

19 (B) in paragraph (10)(A), by inserting
 20 after “title 35, United States Code,” the fol-
 21 lowing: “other than sections 1 through 6 (as
 22 amended by chapter 1 of this subtitle),”.

23 (2) Section 4802(1) of that Act is amended by
 24 inserting “to” before “citizens”.

25 (3) Section 4804 of that Act is amended—

1 (A) in subsection (b), by striking “11(a)”
 2 and inserting “10(a)”; and

3 (B) in subsection (c), by striking “13” and
 4 inserting “12”.

5 (4) Section 4402(b)(1) of that Act is amended
 6 by striking “in the fourth paragraph”.

7 **SEC. 8. TECHNICAL CORRECTIONS IN TRADEMARK LAW.**

8 (a) AWARD OF DAMAGES.—Section 35(a) of the Act
 9 of July 5, 1946 (commonly referred to as the “Trademark
 10 Act of 1946”) (15 U.S.C. 1117(a)), is amended by strik-
 11 ing “a violation under section 43(a), (c), or (d),” and in-
 12 serting “a violation under section 43(a) or (d),”.

13 (b) ADDITIONAL TECHNICAL AMENDMENTS.—The
 14 Trademark Act of 1946 is further amended as follows:

15 (1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is
 16 amended in the first sentence by striking “specifying
 17 the date of the applicant’s first use” and all that fol-
 18 lows through the end of the sentence and inserting
 19 “specifying the date of the applicant’s first use of
 20 the mark in commerce and those goods or services
 21 specified in the notice of allowance on or in connec-
 22 tion with which the mark is used in commerce.”.

23 (2) Section 1(e) (15 U.S.C. 1051(e)) is amend-
 24 ed to read as follows:

1 “(e) If the applicant is not domiciled in the United
2 States the applicant may designate, by a document filed
3 in the United States Patent and Trademark Office, the
4 name and address of a person resident in the United
5 States on whom may be served notices or process in pro-
6 ceedings affecting the mark. Such notices or process may
7 be served upon the person so designated by leaving with
8 that person or mailing to that person a copy thereof at
9 the address specified in the last designation so filed. If
10 the person so designated cannot be found at the address
11 given in the last designation, or if the registrant does not
12 designate by a document filed in the United States Patent
13 and Trademark Office the name and address of a person
14 resident in the United States on whom may be served no-
15 tices or process in proceedings affecting the mark, such
16 notices or process may be served on the Commissioner.”;

17 (3) Section 8(f) (15 U.S.C. 1058(f)) is amend-
18 ed to read as follows:

19 “(f) If the registrant is not domiciled in the United
20 States, the registrant may designate, by a document filed
21 in the United States Patent and Trademark Office, the
22 name and address of a person resident in the United
23 States on whom may be served notices or process in pro-
24 ceedings affecting the mark. Such notices or process may
25 be served upon the person so designated by leaving with

1 that person or mailing to that person a copy thereof at
2 the address specified in the last designation so filed. If
3 the person so designated cannot be found at the address
4 given in the last designation, or if the registrant does not
5 designate by a document filed in the United States Patent
6 and Trademark Office the name and address of a person
7 resident in the United States on whom may be served no-
8 tices or process in proceedings affecting the mark, such
9 notices or process may be served on the Commissioner.”;

10 (4) Section 9(c) (15 U.S.C. 1059(c)) is amend-
11 ed to read as follows:

12 “(c) If the registrant is not domiciled in the United
13 States the registrant may designate, by a document filed
14 in the United States Patent and Trademark Office, the
15 name and address of a person resident in the United
16 States on whom may be served notices or process in pro-
17 ceedings affecting the mark. Such notices or process may
18 be served upon the person so designated by leaving with
19 that person or mailing to that person a copy thereof at
20 the address specified in the last designation so filed. If
21 the person so designated cannot be found at the address
22 given in the last designation, or if the registrant does not
23 designate by a document filed in the United States Patent
24 and Trademark Office the name and address of a person
25 resident in the United States on whom may be served no-

1 tices or process in proceedings affecting the mark, such
 2 notices or process may be served on the Commissioner.”;

3 (5) Subsections (a) and (b) of section 10 (15
 4 U.S.C. 1060(a) and (b)) are amended to read as fol-
 5 lows:

6 “(a)(1) A registered mark or a mark for which an
 7 application to register has been filed shall be assignable
 8 with the good will of the business in which the mark is
 9 used, or with that part of the good will of the business
 10 connected with the use of and symbolized by the mark.
 11 Notwithstanding the preceding sentence, no application to
 12 register a mark under section 1(b) shall be assignable
 13 prior to the filing of an amendment under section 1(c)
 14 to bring the application into conformity with section 1(a)
 15 or the filing of the verified statement of use under section
 16 1(d), except for an assignment to a successor to the busi-
 17 ness of the applicant, or portion thereof, to which the
 18 mark pertains, if that business is ongoing and existing.

19 “(2) In any assignment authorized by this section,
 20 it shall not be necessary to include the good will of the
 21 business connected with the use of and symbolized by any
 22 other mark used in the business or by the name or style
 23 under which the business is conducted.

24 “(3) Assignments shall be by instruments in writing
 25 duly executed. Acknowledgment shall be prima facie evi-

1 dence of the execution of an assignment, and when the
2 prescribed information reporting the assignment is re-
3 corded in the United States Patent and Trademark Office,
4 the record shall be prima facie evidence of execution.

5 “(4) An assignment shall be void against any subse-
6 quent purchaser for valuable consideration without notice,
7 unless the prescribed information reporting the assign-
8 ment is recorded in the United States Patent and Trade-
9 mark Office within 3 months after the date of the assign-
10 ment or prior to the subsequent purchase.

11 “(5) The United States Patent and Trademark Office
12 shall maintain a record of information on assignments, in
13 such form as may be prescribed by the Commissioner.

14 “(b) An assignee not domiciled in the United States
15 may designate by a document filed in the United States
16 Patent and Trademark Office the name and address of
17 a person resident in the United States on whom may be
18 served notices or process in proceedings affecting the
19 mark. Such notices or process may be served upon the
20 person so designated by leaving with that person or mail-
21 ing to that person a copy thereof at the address specified
22 in the last designation so filed. If the person so designated
23 cannot be found at the address given in the last designa-
24 tion, or if the assignee does not designate by a document
25 filed in the United States Patent and Trademark Office

1 the name and address of a person resident in the United
 2 States on whom may be served notices or process in pro-
 3 ceedings affecting the mark, such notices or process may
 4 be served upon the Commissioner.”;

5 (7) Section 23(c) (15 U.S.C. 1091(c)) is
 6 amended by striking the second comma after “nu-
 7 meral”.

8 (8) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is
 9 amended by aligning the text with paragraph (7).

10 (9) Section 34(d)(1)(A) (15 U.S.C.
 11 1116(d)(1)(A)) is amended by striking “section
 12 110” and all that follows through “(36 U.S.C. 380)”
 13 and inserting “section 220506 of title 36, United
 14 States Code,”.

15 (10) Section 34(d)(1)(B)(ii) (15 U.S.C.
 16 1116(d)(1)(B)(ii)) is amended by striking “section
 17 110” and all that follows through “(36 U.S.C. 380)”
 18 and inserting “section 220506 of title 36, United
 19 States Code”.

20 (11) Section 34(d)(11) is amended by striking
 21 “6621 of the Internal Revenue Code of 1954” and
 22 inserting “6621(a)(2) of the Internal Revenue Code
 23 of 1986”.

24 (12) Section 35(b) (15 U.S.C. 1117(b)) is
 25 amended—

1 (A) by striking “section 110” and all that
 2 follows through “(36 U.S.C. 380)” and insert-
 3 ing “section 220506 of title 36, United States
 4 Code,”; and

5 (B) by striking “6621 of the Internal Rev-
 6 enue Code of 1954” and inserting “6621(a)(2)
 7 of the Internal Revenue Code of 1986”.

8 (13) Section 44(e) (15 U.S.C. 1126(e)) is
 9 amended by striking “a certification” and inserting
 10 “a true copy, a photocopy, a certification,”.

11 **SEC. 9. PATENT AND TRADEMARK FEE CLERICAL AMEND-**
 12 **MENT.**

13 The Patent and Trademark Fee Fairness Act of 1999
 14 (113 Stat. 1537–546 et seq.), as enacted by section
 15 1000(a)(9) of Public Law 106–113, is amended in section
 16 4203, by striking “111(a)” and inserting “1113(a)”.

17 **SEC. 10. COPYRIGHT RELATED CORRECTIONS TO 1999 OM-**
 18 **NIBUS REFORM ACT.**

19 Title I of the Intellectual Property and Communica-
 20 tions Omnibus Reform Act of 1999, as enacted by section
 21 1000(a)(9) of Public Law 106–113, is amended as follows:

22 (1) Section 1007 is amended—

23 (A) in paragraph (2), by striking “para-
 24 graph (2)” and inserting “paragraph (2)(A)”;
 25 and

1 (B) in paragraph (3), by striking
2 “1005(e)” and inserting “1005(d)”.

3 (2) Section 1006(b) is amended by striking
4 “119(b)(1)(B)(iii)” and inserting
5 “119(b)(1)(B)(ii)”.

6 (3)(A) Section 1006(a) is amended—

7 (i) in paragraph (1), by adding “and”
8 after the semicolon;

9 (ii) by striking paragraph (2); and

10 (iii) by redesignating paragraph (3) as
11 paragraph (2).

12 (B) Section 1011(b)(2)(A) is amended to read
13 as follows:

14 “(A) in paragraph (1), by striking ‘pri-
15 mary transmission made by a superstation and
16 embodying a performance or display of a work’
17 and inserting ‘performance or display of a work
18 embodied in a primary transmission made by a
19 superstation or by the Public Broadcasting
20 Service satellite feed’;”.

21 **SEC. 11. AMENDMENTS TO TITLE 17, UNITED STATES CODE.**

22 Title 17, United States Code, is amended as follows:

23 (1) Section 119(a)(6) is amended by striking
24 “of performance” and inserting “of a performance”.

1 (2)(A) The section heading for section 122 is
 2 amended by striking “**rights; secondary**” and
 3 inserting “**rights: Secondary**”.

4 (B) The item relating to section 122 in the
 5 table of contents for chapter 1 is amended to read
 6 as follows:

“122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.”.

7 (3)(A) The section heading for section 121 is
 8 amended by striking “**reproduction**” and insert-
 9 ing “**Reproduction**”.

10 (B) The item relating to section 121 in the
 11 table of contents for chapter 1 is amended by strik-
 12 ing “reproduction” and inserting “Reproduction”.

13 (4)(A) Section 106 is amended by striking “107
 14 through 121” and inserting “107 through 122”.

15 (B) Section 501(a) is amended by striking “106
 16 through 121” and inserting “106 through 122”.

17 (C) Section 511(a) is amended by striking “106
 18 through 121” and inserting “106 through 122”.

19 (5) Section 101 is amended—

20 (A) by moving the definition of “computer
 21 program” so that it appears after the definition
 22 of “compilation”; and

1 (B) by moving the definition of “registra-
 2 tion” so that it appears after the definition of
 3 “publicly”.

4 (6) Section 110(4)(B) is amended in the matter
 5 preceding clause (i) by striking “conditions;” and in-
 6 serting “conditions:”.

7 (7) Section 118(b)(1) is amended in the second
 8 sentence by striking “to it”.

9 (8) Section 119(b)(1)(A) is amended—

10 (A) by striking “transmitted” and insert-
 11 ing “retransmitted”; and

12 (B) by striking “transmissions” and insert-
 13 ing “retransmissions”.

14 (9) Section 203(a)(2) is amended—

15 (A) in subparagraph (A)—

16 (i) by striking “(A) the” and inserting
 17 “(A) The”; and

18 (ii) by striking the semicolon at the
 19 end and inserting a period;

20 (B) in subparagraph (B)—

21 (i) by striking “(B) the” and inserting
 22 “(B) The”; and

23 (ii) by striking the semicolon at the
 24 end and inserting a period; and

1 (C) in subparagraph (C), by striking “(C)
2 the” and inserting “(C) The”.

3 (10) Section 304(c)(2) is amended—

4 (A) in subparagraph (A)—

5 (i) by striking “(A) the” and inserting
6 “(A) The”; and

7 (ii) by striking the semicolon at the
8 end and inserting a period;

9 (B) in subparagraph (B)—

10 (i) by striking “(B) the” and inserting
11 “(B) The”; and

12 (ii) by striking the semicolon at the
13 end and inserting a period; and

14 (C) in subparagraph (C), by striking “(C)
15 the” and inserting “(C) The”.

16 (11) The item relating to section 903 in the
17 table of contents for chapter 9 is amended by strik-
18 ing “licensure” and inserting “licensing”.

19 **SEC. 12. OTHER COPYRIGHT RELATED TECHNICAL AMEND-**
20 **MENTS.**

21 (a) AMENDMENT TO TITLE 18.—Section 2319(e)(2)
22 of title 18, United States Code, is amended by striking
23 “107 through 120” and inserting “107 through 122”.

24 (b) STANDARD REFERENCE DATA.—(1) Section
25 105(f) of Public Law 94–553 is amended by striking “sec-

1 tion 290(e) of title 15” and inserting “section 6 of the
2 Standard Reference Data Act (15 U.S.C. 290e)”.

3 (2) Section 6(a) of the Standard Reference Data Act
4 (15 U.S.C. 290e) is amended by striking “Notwith-
5 standing” and all that follows through “United States
6 Code,” and inserting “Notwithstanding the limitations
7 under section 105 of title 17, United States Code,”.

Passed the Senate February 14, 2001.

Attest:

GARY SISCO,
Secretary.